

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona
Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

TOBY HARWOOD,

Defendant.

Adv. Pro. No. 10-04818 (SMB)

NOTICE OF MEDIATION REFERRAL AND MEDIATOR SELECTION

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on November 30, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

Pursuant to the Avoidance Procedures, the Trustee and Defendant may jointly agree to enter mediation prior to or upon completion of discovery without further court order. Avoidance Procedures, ¶ 5A. Through this Notice of Mediation Referral and Mediator Selection, the Trustee and Defendant (the “Parties”) hereby state that they have completed discovery in the above-referenced adversary proceeding and agree to be referred to mandatory mediation at this time.

Further, pursuant to the Avoidance Procedures and the Mediation Order, the Parties hereby mutually select the Honorable Allen Hurkin-Torres (Ret.) to act as Mediator in this matter.² The Parties further agree to contact the Honorable Allen Hurkin-Torres as soon as practicable after this Notice of Mediator Selection is filed with the Court.

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

² The parties note that Judge Hurkin-Torres is not on the Register of Mediators for the United States Bankruptcy Court for the Southern District of New York, but both parties have consented to use Judge Hurkin-Torres.

The Parties further agree that no person shall act as Mediator if that person, or that person's law firm, currently represents a party with respect to the BLMIS proceeding, unless the Parties provide prior written consent that the person may act as Mediator.

Pursuant to the Avoidance Procedures, the Parties agree that this mediation will conclude within 120 days from the date that this Notice of Mediator Selection is filed, unless that deadline is extended by mutual consent of the Parties and the Mediator.

Dated: October 13, 2020
New York, New York

BAKER & HOSTETLER LLP

Of Counsel:

BAKER HOSTETLER LLP
811 Main, Suite 1100
Houston, Texas 77002
Telephone: (713) 751-1600
Facsimile: (713) 751-1717
Dean D. Hunt
Email: dhunt@bakerlaw.com

By: /s/ Nicholas J. Cremona
David J. Sheehan
Nicholas J. Cremona
45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201

*Attorneys for Irving H. Picard, Trustee
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Bernard L. Madoff*

CHAITMAN LLP

By: /s/ Helen Davis Chaitman
Helen Davis Chaitman
465 Park Avenue
New York, New York 10022
Phone & Fax : (888) 759-1114
hchaitman@chaitmanllp.com

Attorney for Defendant